

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
	:	
Proposed tariff establishing a market value	:	
methodology pursuant to Section 16-112(a) of the	:	
Public Utilities Act to be effective post-2006 and	:	No. 05-0159
related revisions to Rider PPO and other tariffs,	:	
including provisions that would enable subsequent	:	
restructuring of rates and unbundling of prices for	:	
bundled services pursuant to Sections 16-109A and	:	
16-111(a) of the Act.	:	

**COMMONWEALTH EDISON COMPANY'S GENERAL
OBJECTIONS TO J. ARON & COMPANY AND MORGAN
STANLEY CAPITAL GROUP INC.'S DATA REQUESTS**

Commonwealth Edison Company ("ComEd"), by its counsel, makes the following General Objections to J. Aron & Company Morgan Stanley Capital Group Inc. data requests in this Docket (the "Data Requests").

General Objections

1. ComEd objects to the Data Requests to the extent that they attempt to impose obligations on ComEd beyond those authorized by the Illinois Commerce Commission's (the "Commission") Rules of Practice, 83 Illinois Administrative ["Ill. Admin."] Code Part 200, including but not limited to the Illinois Supreme Court discovery rules as adopted in Commission practice by 83 Ill. Admin. Code § 200.360(c), other applicable Illinois law, or the obligations imposed by rulings of the Administrative Law Judge in this Docket issued on April 22, 2005 and on April 26, 2005. This objection is not limited by the more specific General Objections that follow.

OFFICIAL FILE

ILL. C. C. DOCKET NO. 05-0159
J. Aron &
Assoc. Pros. EXHIBIT NO. 1
Witness _____
Date 8-29-05 Reporter AB

2. ComEd objects to the Data Requests to the extent, if any, that they call for production of information protected by the attorney-client privilege, the work product doctrine, or other legal exemption from discovery. Without limiting the generality of the foregoing, ComEd will not produce documents that constitute or memorialize: (1) communications between ComEd's attorneys retained in connection with this Docket and ComEd personnel lawfully receiving privileged communications concerning this Docket, the subject of which is legal advice or facts communicated in connection with the rendering of legal advice where privilege has not been waived, and which communications did not constitute the basis of any witness' testimony; and (2) work product of ComEd's attorneys in connection with this Docket or the development of rates filed in this Docket or to be filed in the upcoming general rate case referred to in the testimony supporting the tariffs filed in this Docket. Where another claim of privilege, work product, or other legal exemption is the sole basis which documents are not produced, ComEd will maintain a privilege log that: will identify the documents withheld (individually or by descriptive class), will provide a brief description of the documents or class of documents withheld, and will identify or describe the legal exemption being claimed.

3. ComEd objects to the Data Requests to the extent, if any, that they seek documents or information relating to consulting experts whose testimony will not be offered into evidence, except insofar as such information is otherwise subject to discovery (e.g., it forms the basis of testimony).

4. ComEd objects to the Data Requests to the extent, if any, that they purport to require ComEd to produce information that is solely in the possession of its affiliates or that is otherwise not in ComEd's custody or control. ComEd will conduct a reasonable search for information in ComEd's custody or control that is responsive to the Data Requests. ComEd

objects to the Data Requests to the extent, if any, that they require ComEd to provide information that is publicly available, or to which the Requesting Party has equal access.

5. ComEd objects to the Data Requests to the extent, if any, that they require ComEd to produce Confidential Information, as that term is used in the Protective Order entered in this Docket on April 26, 2005, not belonging to ComEd. To the extent that the Data Requests seek documents or information that ComEd has determined to be "Confidential" or "Confidential and Proprietary", and which are marked as such, such information is to be treated in the manner specified in 220 ILCS 5/4-404 and 83 Ill. Adm. Code §§ 200.430 and in accordance with the Protective Order entered in this Docket on April 26, 2005.

6. ComEd objects to the Data Requests to the extent, if any, that they seek responses to the Data Request in a shorter period of time than that which is called for by both Section 200.410(b) of Commission's Rules of Practice (83 Ill. Admin. Code § 200.410(b)), and the Order of the Administrative Law Judge issued in this case, issued on April 22, 2005.

7. ComEd may provide requested information in response to one or more objectionable Data Requests, or portions thereof, notwithstanding these General Objections. Such production is without prejudice to, and without waiver of, these objections with respect to any other Data Request or other request for documents or information.

Dated: July 8, 2005

COMMONWEALTH EDISON COMPANY

Paul F. Hanzlik
E. Glenn Rippie
John L. Rogers
Foley & Lardner LLP
321 N. Clark Street
Suite 2800
Chicago, Illinois 60610
(312) 832-4500
phanzlik@foley.com
grippy@foley.com
jrogers@foley.com

Darryl Bradford
Vice President & General Counsel
Commonwealth Edison Company
440 S. LaSalle Street, Suite 3300
Chicago, IL 60605
312-394-7541
darryl.bradford@exeloncorp.com

Anastasia M. O'Brien
Richard Bernet
Exelon Business Services Company
10 South Dearborn, Suite 3500
P.O. Box 805398
Chicago, IL 60603
(312) 394-3623
anastasia.obrien@exeloncorp.com
richard.bernet@exeloncorp.com

Attorneys for Commonwealth Edison Company

ICC Docket No. 05-0159

**Commonwealth Edison Company's Response to
JA and MSCG Data Requests 1.01**

Dated: June 17, 2005

REQUEST NO. JA / MSCG 1.01:

Please state whether a supplier will have the option to propose and ComEd will accept as part of a supplier's alternate form of guaranty contemplated in the CPP-B Supplier Forward Contract the designation of "New York" as the state whose laws will govern the interpretation of the alternate form of guaranty. Please state ComEd's reasons for allowing suppliers to choose a state's law other than Illinois law to govern interpretation of the alternate form of guaranty.

- a. If ComEd response to request 1.1 is in the affirmative, please state whether, as part of ComEd's acceptance of the designation of New York law as part of an alternate form of guaranty, ComEd will impose other restrictions or caveats to this alternate form of guaranty. If so, state those restrictions or caveats.
- b. Provide a current detailed description of the alternative form of guaranty process that ComEd proposes to apply, including without limitation a description of requirements, timing of submission and review of alternate form of guaranty, and the review process.

RESPONSE:

Yes. In order to encourage the widest possible participation in the auction by potential suppliers, ComEd is willing to permit other state's law to govern the interpretation of the guaranty, provided that certain minimum requirements are met. In addition, ComEd notes that while it will consider another state's law to govern the interpretation, that any disputes that may arise regarding the Guaranties must still be heard in an Illinois court, which would have jurisdiction in the matter.

- a) Yes. The caveats and restrictions are described on the attached Alternate Form of Guaranty Process.
- b) A current version of Appendix C of the Part I Application Form is attached.

Appendix C- Alternate Guaranty Process

As stated in the CPP and BGS Supplier Forward Contracts, Commonwealth Edison ("ComEd") and the Ameren Companies ("Ameren") will allow any bidder to submit an alternate form of guaranty. Such an alternate form of guaranty, if approved according to the process set forth below, is an option to the safe harbor of the standard form of guaranty appended to the CPP and BGS Supplier Forward Contracts. A Supplier can use the standard form of guaranty appended to the CPP and BGS Supplier Forward Contracts and be assured that this standard form of guaranty is acceptable to ComEd and Ameren.

Please note that the standard form of guaranty is a financial guaranty, not a performance guaranty. While alternate forms of financial guaranty may be acceptable, performance guaranties are not acceptable.

The process for submitting an alternate form of guaranty and the ground rules for consideration by ComEd and Ameren of alternate forms of guaranty are as follows:

1. ComEd and Ameren will consider alternate forms of guaranty only if the guaranty is for unlimited liability. The standard guaranty permits a liability limit.
2. ComEd and Ameren have specified a list of additional requirements that any alternate form of guaranty must satisfy. This list is set forth under the heading: "Requirements for the Alternate Guaranty" below.
3. The Auction Manager will receive the alternate form of guaranty, remove any information identifying the proposing party and forward it to ComEd and Ameren. ComEd and Ameren will determine, with the consultation of outside counsel, whether the alternate form of guaranty provides sufficient assurances of payment, taking into account the following considerations: (i) whether the alternate form of guaranty conforms with the specific requirements identified by ComEd and Ameren, (ii) whether the alternate form of guaranty provides substantially similar credit protections to the credit protections provided to ComEd and Ameren by the standard forms of guaranty, (iii) whether the alternate form of guaranty is missing any of the specific protections found in the standard forms of guaranty, and (iv) whether the alternate form of guaranty includes defenses in favor of the guarantor not found in the standard forms of guaranty. ComEd and Ameren may also identify specific changes that would permit the alternate form of guaranty to be acceptable, if such changes are of a limited nature. ComEd and Ameren shall inform the Auction Manager of their decision.
4. The Auction Manager will inform the proposing party of this decision. Proposing parties will be given an opportunity to resubmit the alternate form of guaranty

only if it is resubmitted with changes identified by ComEd and Ameren, as accepted.

5. Proposing parties will be responsible for reimbursing ComEd and Ameren for all legal fees associated with outside counsel review with respect to the alternate form of guaranty submitted by the proposing party.

Requirements for the Alternate Guaranty

Set forth below are the specific requirements that must be met in order for any alternate form of guaranty to be acceptable. The alternate form of guaranty must include the following:

1. Guaranty must be an unconditional guaranty of payment of all amounts due by Bidder to ComEd under the CPP-A, CPP-B and/or CPP-H Supplier Forward Contract, as appropriate, and/or to Ameren under the BGS-FP, BGS-LFP and/or BGS-LRTP Supplier Forward Contract, as appropriate. The CPP-A, CPP-B, CPP-H, BGS-FP, BGS-LFP and/or BGS-LRTP Supplier Forward Contract(s), as appropriate, must be expressly identified and the satisfaction of obligations through performance may not be authorized.
2. Guaranty may be terminated upon not less than thirty (30) days advance written notice to ComEd or Ameren, as appropriate, and termination shall not discharge liabilities and obligations of the Guarantor that have been incurred before the effective date of the termination. The termination may only be effective upon receipt by ComEd or Ameren, as appropriate, of alternate means of security or credit support covering amounts due by the Supplier to ComEd under the CPP-A, CPP-B or CPP-H Supplier Forward Contract or to Ameren under the BGS-FP, BGS-LFP or BGS-LRTP Supplier Forward Contract, as appropriate.
3. Guaranty must not be subject to any monetary limit.
4. Guaranty must be accompanied by a certification that this form of guaranty, subject to changes needed to conform with the specific requirements of ComEd and Ameren, has been in general use by the submitting party in its ordinary course of business over the past twelve months.
5. Guaranty must be a guaranty of payment and not of collection.
6. Assignment by the guarantor of its obligations under the guaranty (whether voluntarily or by operation of law) shall not be permitted except with the prior written consent of [ComEd] [Ameren].

7. Subject to requirement number 4 listed above, a party may designate a state other than Illinois whose laws shall govern the interpretation of the guaranty. However, if a party chooses a state other than Illinois, the guaranty must provide that the party consents to jurisdiction in Illinois and agrees to maintain a registered agent for service of process in Illinois, as is required by section 15.14 of the [CPP-A, CPP-B or CPP-H] Supplier Forward Contract and section 15.15 of the [BGS-FP, BGS-LFP or BGS-LRTP] Supplier Forward Contract.
8. The proposing party must provide a signed opinion from a law firm of national (i.e., United States) standing (i) when the alternate form of guaranty is initially delivered to the Auction Manager for review, as to the enforceability of the alternate form of guaranty (assuming due authorization, execution and delivery by the Guarantor of the alternate form of guaranty) and (ii) when the definitive, executed guaranty is delivered, as to the due authorization, execution and delivery by the Guarantor of, and enforceability against the Guarantor of, the alternate form of guaranty. The opinions must not be weaker than would be industry norm and must contain only those qualifications that would be typical. The opinion shall name ComEd and Ameren and explicitly state that ComEd and Ameren are entitled to rely on the opinion.
9. The alternate form of guaranty must be executed and delivered at the time the BGS or CPP Supplier executes the applicable Supplier Forward Contract(s).

Timetable¹

ComEd and Ameren urge all potential bidders that wish to secure approval of an alternate form of guaranty in advance of the auction to submit such alternate form of guaranty according to the following timetable. This timetable ensures that potential bidders are aware of whether their alternate form of guaranty is accepted before Part 1 Applications are due. The deadline to submit an alternate form of guaranty, with all the required documentation, is noon (CDT) on June 8, 2006.

If needed, the Auction Manager will require that proposing parties of any modifications needed to their alternate form of guaranty by noon (CDT) on June 15, 2006. Proposing parties will be given no more than two business days to then re-submit their alternate form of guaranty.

The Auction Manager will provide the proposing parties with written notice of the decision on or before June 23, 2006.

¹ All dates listed in this section and in the Timetable are approximations and placeholders.

Timetable for Alternate Guaranty Process for the Initial Auction	
Deadline to submit alternate form of guaranty and all required documentation	Noon (CDT), June 8, 2006
Auction Manager informs proposing parties of any required changes in the alternate guaranty or supporting documents	Noon (CDT), June 15, 2006
Deadline to submit required modifications or revisions to the alternate form of guaranty or other required documents	Noon (CDT), June 19, 2006
Auction Manager informs proposing parties of decision	June 23, 2006